

REMARKS:

As the examiner can see, claims 6-11, 13-16, 18-20, 26, 27, 29-31, 34-36, 38, 40-42 and 48-51 have been cancelled.

The cancellation of claims to directed certain subject matter is made without prejudice and Applicant has no intention at this time to abandon that subject matter. Applicant hereby expressly reserves right to pursue the same or similar subject matter in a continuing application, a divisional application and/or a continuation-in-part application.

Claim 1 was rejected under 35 USC 112 for use of the phrase "harvesting the triglycerides from the organism". As the examiner can see, this claim has been amended to read "harvesting the triglycerides from seeds from the organism".

Claim 45 was rejected under 35 USC 112 for use of the term "control organism".

As the examiner can see, claims 44 and 45 have been cancelled and the subject matter of these claims has been incorporated into claims 1 and 17, as discussed below.

Regarding the term "control organism" itself, as the examiner can see, claims 1 and 17 as amended refer to 'control'. It is noted that throughout the specification, 'control' is used interchangeably with terms such as 'wild-type', 'untransformed' and 'vector-transformed' and it is held that one of skill in the art would understand the use of the term 'control' in these claims given the context in which it appears. The examiner is directed to, for example, page 5, lines 22-26, Tables 1 and 2, which shows a vector-transformed control, page 14, lines 8-9 which reads "the transformants produce more lipids *in vivo*, relative to the control, as shown in Tables 3 & 4", Tables 3, 4, 5 and 6, which show both wild-type and vector-transformed controls, and page 16, lines 17-19 which reads "wild type and

plants transformed with vector alone were grown as controls along with the transformed plants".

Claims 1, 2 and 3 were rejected under 35 USC 102(b) as anticipated by Nishizawa.

Regarding Nishizawa, it is noted that this reference is directed to a method of changing the content of saturated fatty acids in phosphatidylglycerol (PG). Specifically, Nishizawa teaches that "introduction and expression in a higher plant of a DNA sequence encoding an ATase that has a higher substrate selectivity for 18:1-ACP than for 16:0 increases the unsaturated fatty acid content particularly in PG and also results in a prominent decrease of saturated PG molecular species" (US Patent 5,516,667, column 8, lines 20-26). This reference further states that "no significant difference was observed between the control and the transgenic plants in the fatty acid compositions of major lipid classes other than PG" (column 14, lines 65-68).

As amended, claim 1 is directed to a method of triacylglyceride production wherein production of triacylglycerides in an organism is increased by transforming the organism with an introduced DNA encoding a protein having glycerol-3-phosphate acyltransferase (GPAT) activity and then growing the organism under conditions such that said glycerol-3-phosphate acyltransferase is expressed prior to harvesting and said organism has higher triacylglyceride content compared to a control; and then harvesting the triacylglycerides from seeds from the organism. Similar amendments have been made to claim 17.

As discussed in the previous response, the fact that increased GPAT expression would increase triacylglyceride production in an organism is not taught or suggested by Nishizawa, who only teach that increased expression increases the percentage or proportion of PG that is unsaturated which in turn has an effect on cold tolerance.

Claims 1-5, 12, 17 and 44-47 were rejected under 35 USC 103(a) as unpatentable over Nishizawa, and further in view of Davies and Bhella.

It is believed that the amendments to claims 1 and 17 discussed above overcome these objections as well.

Further and more favorable consideration is respectfully requested.

Respectfully submitted

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